

**Senate Bill 1849 (Karnette)
Election Cycle**

Version: Introduced, 2/20/04

Status: Senate Elections Committee

Set for hearing: April 21, 2004

Executive Summary

The Political Reform Act currently defines an election cycle, for the purposes of online disclosure of specified contributions and independent expenditures, as the period of time commencing 90 days prior to an election and ending on the date of the election. SB 1849 would instead define the election cycle as beginning with the filing of a committee's statement of organization. The bill would also change the timeframe for filing lobbying disclosure reports from a quarterly to a monthly system.

Recommendation

Staff recommends that the Commission oppose SB 1849 unless amended. Although the bill increases the frequency of certain disclosure reports in a manner consistent with the purposes of the Act, the Commission may want to consider whether the public benefit derived from this additional disclosure is significant enough to warrant the increased reporting demands on committees and lobbyists.

Background

Section 85309 of the Act requires state candidates and primarily formed state ballot measure committees that file campaign disclosure reports electronically under section 84605 to file additional reports. During periods other than an "election cycle," these committees must file an electronic report within 10 days of receiving a contribution of \$5,000 or more. During an election cycle, these committees must file an electronic report within 24 hours of receiving a contribution of \$1,000 or more.

In addition, section 85500 requires committees that file electronically under section 84605 to electronically report within 24 hours any independent expenditures of \$1,000 or more made to support or oppose a state candidate or state ballot measure during the 90-day election cycle.

From 1975 through 1979, lobbying reports were required to be filed on a monthly basis. In 1979, the Act was amended to require quarterly disclosure (SB 810; Chapter 592, Stats. 1979). At the time, the purpose of the amendment was to reduce paperwork. Section 86117 currently requires that lobbyists file the reports required by section 86114 and 86116 during the month following each calendar quarter.

According to the author's staff, SB 1849 is sponsored by the Secretary of State.

Analysis

SB 1849 would adjust the timeframes of certain campaign and lobbying disclosure requirements.

Changes to Campaign Disclosure

SB 1849 would amend section 85204 to change the beginning of the election cycle from 90 days prior to an election to the date of filing the recipient committee statement of organization required by section 84101.

By lengthening the period of time covered in an “election cycle,” SB 1849 would advance the date on which committees controlled by state candidates and primarily formed state ballot measure committees must file 24-hour reports for contributions of \$1,000 or more. The change would also require committees filing reports for independent expenditures related to state candidates or ballot measures to disclose those expenditures at an earlier date.

Staff Concerns

Staff has raised several points regarding changes to the election cycle. These concerns include:

- **Potential “gap” in campaign disclosure** – Section 84101 requires the statement of organization to be filed within 10 days of receiving contributions of \$1,000 or more. SB 1849 would link the election cycle, and filing of reports required under section 85309 and 85500, to the filing date of the statement of organization. Using this language, it is possible that a committee would not be required to file 24-hour reports during the 10-day period between qualification as a committee and the deadline for filing the statement of organization.
- **Ambiguity regarding applicable elections** – There is currently some ambiguity regarding the applicable election which triggers these reporting requirements. Commission staff, for purposes of section 85309, has advised that the electronic report is required only when a candidate for elective office is on the ballot (*Fishburn* Advice Letter, No. A-01-283). The author may want to use this bill as a mechanism to clarify this ambiguity.
- **“Election cycle” for independent expenditures** – Based on current language, the author may want to clarify how the election cycle would apply to independent expenditure reports required under section 85500. For example, would the election cycle begin when the candidate or ballot measure supported/opposed by the independent expenditure files their statement of organization or when the independent expenditure committee files its statement?
- **Potential “exempt” independent expenditures** – Not all independent expenditure committees covered by section 85500 are recipient committees (some are individuals or business entities) and, as a result, are not required to file a statement of organization under section 84101. If reporting is tied to filing of the statement of organization, it is possible that these committees would no longer be required to file reports under section 85500.

Staff Amendments

Based on the concerns outlined above, staff has proposed two amendments to the bill. In order to address concerns regarding the potential reporting gap and ambiguity of applicable elections, staff recommends that section 85204 be amended to read:

“Election cycle” for purposes of Sections 85309 and 85500, means the period of time commencing ~~90 days prior to an election~~ *with the date that the candidate or committee qualifies as a committee pursuant to Section 82013(a)* and ending on the date of ~~the~~ *an* election in which the candidate or measure is listed on the ballot.

In order to address concerns regarding the election cycle for independent expenditures and the potential for exempt independent expenditures, staff recommends that section 85500(a) be amended to read:

In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars (\$1,000) or more ~~during an election cycle~~ in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

Lobbying Disclosure

In a similar change for lobbying activity, SB 1849 would modify the timeframe for filing periodic lobbying reports. The bill would amend section 86117 and change the schedule for reports filed by lobbying firms and lobbyist employers. Instead of the current quarterly schedule, lobbyists would be required to file certain reports within 10 days following each calendar month of a biennial legislative session.

Staff Concerns

The key concern raised by staff is in regards to the increased workload that would result from a monthly filing schedule for lobbyists. The proposed change to the filing schedule would affect both paper and electronic reports. Until paper copies are no longer needed or required, this change would triple the amount of paper filed with the Secretary of State. Although there is free filing software for many reports, filers wishing to use a more sophisticated system could triple their electronic filing costs and incur increased personnel costs as well.